

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 631 – HB 1616

April 2, 2009

SUMMARY OF BILL: Prohibits the Department of Environment and Conservation (TDEC) from including waters identified as impaired on the list of exceptional or tier two waters pursuant to Section 303(d) of the federal Clean Water Act. Declares any publicly funded project to be in the best interest of the public. As a result, when TDEC must make a finding concerning social and economic necessity to justify degradation of an Exceptional Tennessee Water, the burden of proof current law places upon an applicant to prove that such a degradation is necessary would be placed upon the opponent to provide clear and convincing evidence that the degradation is not necessary.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – According to TDEC removal of such waters from the Exceptional Tennessee Waters list and shifting the burden of proof for publicly-funded projects would place the State in violation of federal rule 40 CFR 131 and statute CWA 303. Such a violation would jeopardize \$2,000,000 in federal funding to the state and could potentially result in the Environmental Protection Agency promulgating its own water quality standards for the state.

Assumption:

- The provisions of the bill will not change the number of days the Water Quality Control Board is required to meet annually to make determinations concerning projects impacted by the shift in the burden of proof for publicly-funded projects.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large initial "J" and a distinct "W".

James W. White, Executive Director

/cce